IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Court No. 2

Civil Writ petition No. 763 (M/S) of 2003

B.H.E.L. United Karamchari Manch,
through its Secretary and another ..... Petitioners

Versus

Assistant Labour Commissioner/
Deputy Registrar Trade Unions,
Garhwal Region, Dehradun and another. ..... Respondents

.....

Hon'ble P.C.Verma,J.

Heard Sri Pankaj Miglani learned counsel for the petitioners and Sri Paresh Tripathi, learned counsel for the respondent No.2.

This writ petition has been filed by the petitioners for issue of writ in the nature of certiorari to quash the impugned order dated 24.07.2003 ad 13.08.2003, contained in Annexure Nos. 12 & 14 respectively to the writ petition, by which the respondent No. 1 has verified the list of members as on 02.05.2000.

The learned counsel for the petitioners submitted that the petition was filed in registry on 21.08.2003, and was taken up by this Court on 22.08.2003. On 22.08.2003, the learned counsel for the petitioners submitted that the list of members, which has been verified by the impugned orders dated 24.07.2003 and 13.08.2003 are not the correct list prepared under Section 5 of the Trade Unions Act. On the query made by the Court that what is the correct list according to the petitioners prepared under Section 5 of the Trade Unions Act. for that the petitioners sought time till date and today he has filed a supplementary affidavit annexing therewith a list. According to the learned counsel for the petitioners the list of members prepared under Section 5 of the Trade Unions Act was verified and attested by the Registrar which is contained as Annexure SA 2 to the supplementary affidavit.

The learned counsel for the caveator submitted that the elections have already been held and results have been declared on

22.08.2003 itself in which the petitioner-Shiv Vrat Sharma has also filed his nomination paper and has been elected as member of the Executive Committee. Now the disputed question is regarding correction of list which cannot be gone into under Article 226 of the Constitution. Therefore, I am not inclined to entertain the writ petition.

The petition is dismissed in limine.

However, it is open for the petitioners to challenge the election before the appropriate forum whichever is available to the petitioners on the ground that the list of members was not a correct list in accordance with the provisions of Sec. 5 of the Trade Unions Act.

(P.C. Verma, J.)

25.08.2003
P.Singh